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硕士学位论文

法庭手语传译: 解析译员的中立性原则

Sign Language Interpreters in Court: Deconstructing the
myth of neutrality

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Synopsis

Sign language interpreting (SLI) , as a form of interpretation, has been broadly used in court interpreting. In this thesis, the author attempts to analyze court interpreting studies at home and abroad, elucidating the features of court interpreting and the roles of court interpreters. Court interpreting is distinguished from other forms of interpreting in various aspects, and staying neutral is one of the most important principles by which court interpreters should abide. Yet for sign language interpreters in Chinese court, this is a huge challenge. The author analyses the current status of sign language interpreting in court from the perspective of deaf people in China and sign language interpreters. Through an interview with 8 sign language interpreters in court, this thesis tries to unveil the myth of neutrality, in hope that this would arouse research interest of sign language interpreting in court. In the end, the author also gives tentative suggestions as an effort to elevate the status of deaf people in China and standardize sign language interpreting in court.

The thesis is composed of the following chapters:

Chapter One introduces the background, purpose of the study, the research questions, and serves to conceptualize the basic notions pertinent to this study, and presents the weakness of the past studies.

Chapter Two reviews the related literature of the present study. It mainly includes three parts, with the first part introducing court interpreting studies at home and abroad, the second part reviewing studies on sign language interpreting in court in China and around the world, and general comments on the previous studies.

Chapter Three gives an overview of court interpreting in practice in China and western countries from the perspective of legislation, the source and social status of court interpreters. By comparing court interpreting to other forms of interpreting, the features of court interpreting are highlighted. It finally demonstrates the role and professional responsibility for court interpreters, in order to elaborate the connotation

of neutrality.

Chapter Four first demonstrates the problems with neutrality in general, and then deconstructs the myth of neutrality for court interpreting from the perspective of Chinese deaf community and sign language interpreters. Finally, observations and interviews on sign language interpreters in court are given to support the myth of neutrality.

Chapter Five reviews the previous chapters and raises tentative suggestions in areas such as education, employment and improving communication of the deaf people, the training of sign language interpreters, the improvement of related laws, systems and mechanisms, and the social recognition and understanding of interpreters, in an attempt to minimize partiality and achieve neutrality in the future.

Key Words: Court Interpreting; Sign Language Interpreting (SLI); Neutrality

摘 要

手语翻译作为翻译的一种形式广泛应用于法庭口译当中。本文先从中西方法庭口译及法庭手语翻译研究入手,结合法庭口译的特点,分析法庭手语译员的角色定位。本文认为法庭口译有别于其他口译形式,中立性原则是法庭口译人员应遵守的重要准则之一,但是对于目前中国的法庭手语译员来说,保持中立性面临现实的考验。本文从目前我国聋人的现状及译员的角度进行分析,并结合实证采访事例来揭示中立性的神话,希望能引起研究人员对法庭手语翻译研究的重视。文章最后提出了参考性建议,以期进一步提高聋人地位,规范法庭手语翻译。

本文由以下五章构成:

第一章为本文的背景、研究目的和研究的主要问题,介绍了几个基本的概念,并指出过去研究中存在的弱点。

第二章是相关文献综述。主要包括三个部分,第一部分回顾国内外法庭口译研究,第二部分回顾国内外法庭手语翻译研究,第三部分是对前面综述的点评。

第三章从立法及法庭口译员的来源和地位等方面阐述了法庭口译在中西方国家的现状,并通过比较法庭口译与会议口译等其他口译形式,突出法庭口译的特点,在此基础上通过分析口译员的角色定位,解析法庭口译员的中立性原则内涵。

第四章首先概述了法庭口译员保持中立性遇到的困难,其次分别从聋人和译员的角度阐述了法庭手语翻译中立性的神话,最后观察并采访法庭手语译员,从实证的角度验证前文的中立性神话。

第五章在回顾前面章节的基础上,尝试性从聋人教育、就业和沟通改善;译员培训;相关法制、体制、机制的完善;以及社会对译员的认可和理解等方面提出建议,以期将来尽量保持法庭手语翻译的中立性。

关键词: 法庭口译 手语翻译 中立性

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Chapter I Introduction

1.1 Background and the definition

1.1.1 Court interpreting

Against the backdrop of economic globalization and world integration, China has enjoyed fast growth of foreign trade with the outside world especially after its entry to WTO. This also, inevitably leads to lawsuits and frictions in terms of economy, trade and culture.

As the society is becoming plural, more cases involving different language speakers are dealt in court. At the same time, China is a country of different nationalities, languages and law systems. Many minorities still use their own language, so in these areas local language should be adopted in court. That is where court interpreting comes in. According to the interpreting studies in the West, settings of interpreting activity include not only the early one, i.e. conference, but also those of court, hospital, education services and other public services-related environments (Zhang Wei, 2008). Pochhacker also divided interpreting into business interpreting, liaison interpreting, diplomatic interpreting, education interpreting, court interpreting, community interpreting and media interpreting etc. in accordance with different social functions of different interpreting activities (Pöchhacker, 2004).

Court interpreting refers to the interpretation service a litigant or witness could obtain if he cannot understand the official language /local dialect or express himself in such language which is used by the court (Huang Qiurong, 2007). It can be regarded as a kind of 'community interpreting' which is supposed to enable those who lack fluency in the majority language(s) to get full and equal public service from society at large (Wadensjö, 1999). Its basic purpose is to enable the claimants to participate in proceedings and provide communicative links between claimants who usually belong to immigrant communities and the adjudicating body

(Shuttleworth & Moira, 1997). People who undertake the work are called court interpreters. Moreover, they must be able to do this in each of three modalities: simultaneous interpreting, consecutive interpreting, or sight translating documents (Hewitt, 1995). In many jurisdictions, which is commonly labeled 'court interpreting' includes tasks like the certified translation of documents as well as interpreting in quasi-judicial and administrative hearings (Pöchhacker, 2004).

In China, take the year of 2006 for example, the number of foreign related cases has amounted to 23,313, with an increase of 16.39% compared with the previous year. However, the total number of foreign-related cases from 1998 to 2002 was 26,399 with an annual increase of 4% (Liu Jiangye, 2008). According to the statistics released by Guangzhou Intermediate People's Court, more than 3 foreign related lawsuits concerning foreign interests are dealt with on a weekly basis. In the author's locality Fujian Province, the number of foreign related cases has amounted to more than 5,990 in the year of 2010. It's undoubted that there is an increase of demand for professionally qualified court interpreters due to the increase of foreign-related cases.

The quality of court interpreting in China is unsatisfactory. Liu Jiangye (2008) has listed some samples according to recording work which had been conducted in bilingual court trials in China and been transcribed in accordance with the Transcription Convention for assessment purpose. The errors of court interpreting were categorized into 5 types: linguistic error+legal error, communication error, linguistic error+communication error, legal error+communication error, linguistic error+legal error+communication error, communication error+legal error.

In Malaysia, 62% of the interpreters admitted that they felt short of doing an adequate job as court interpreters. 92% of them felt that they were too burdened by the clerical duties demanded of them. Meanwhile, the vast majority (94%) of the officers of the court (the registrars, magistrates and judges) recognized the continuing need for a competent interpreter in a multilingual society to ensure equal access to justice (Ibrahim & Bell, 2001).

1.1.2 Sign language interpreting in court

When it comes to disabled people, sign language interpreting in court is employed. According to the 94th item of *Criminal Procedure Law* of the People's Republic of China, when interrogating deaf or mute suspects, people who understand their gestures should be part of it and note down the process. In the code of handling criminal cases, the Public Security Ministry stipulates that when questioning criminals who are deaf or mute, people who understand their gestures should participate in the questioning process and note down their disability as well as the name, workplace and profession of the translator. Sign language is a language of sight semiotics which express thought fluently through the gestures and movements of hand, elbow and body as well as facial expressions. Sign language interpreting is a kind of interpreting between spoken language and sign language or between sign language and sign language. Sign language is the mother tongue of most deaf people, thus it is the main instrument for them to express feelings, gain information and take part in social life. Because deaf people are usually mute and few hearing people is good at sign language, therefore, sign language interpreters become an important bridge between deaf people and hearing people. In the US, legislation in the 1960s designed to give deaf persons equal access to the labor market gave a strong impetus to the development of interpreting services for users of sign language (Pöchhacker, 2004). According to a report by Cokely (1981:261-268), educational or classroom settings were the most frequently listed paid sign language interpreting situations in the western world. Another survey carried out in China by Xiao (2009) has found that the legal settings were the most common settings where a sign language interpreter is employed, followed by entertainment performance, educational settings, sports events and hospitals (Wang Wei, 2009).

In terms of sign language interpreting supply and demand market, of the interpreters who responded, the overall majority (92.2%) thought that there was a shortage of sign language interpreters in China, and some respondents mentioned an extreme lack of highly qualified interpreters (Xiao & Yu, 2009).

Court interpreting for foreign language speaking and deaf or hearing impaired

individuals is highly specialized form of interpreting that cannot be effectively performed without commensurate specialized training and skills. Arguably, it is the most difficult form of interpreting.

1.1.3 Neutrality

According to Wikipedia, editing from a neutral point of view means representing fairly, proportionately, and as far as possible without bias. Neutrality in court implies that people who have influence over the final judgment should assume an impartial attitude towards parties whose interests are in conflicts, and should not have prejudice and discrimination against any party. The significance of this requirement is in that it guarantees that every party is treated equally. Therefore, neutrality is a fair request through which justice is upheld by eliminating any unjust or unreasonable factors. It has three parts: firstly, people who have impact on the final judgment, for example, judges and interpreters should not have any personal links to the lawsuit. Secondly, they are not allowed to have implications in the interests of the final judgment or any party involved. Thirdly, they should not have personal preferences that support or discriminate against any side. Thus it was demonstrated that neutrality in legal setting not only requires general neutrality every interpreter should abide by, but also demands interpreters to be detached from any case in question without any bias or discrimination in the proceedings.

1.2 Purpose of research

Currently, the court interpreting research has achieved desirable progress at home and abroad. The past researches are mostly from linguistic perspective to analyze the features and problems of court interpreting or from the legal perspective focusing on the achievement of legal justice. Some has begun to focus on the role of court interpreters and quality evaluation.

However, as a form of interpreting, research on sign language interpreting in court was rarely approached by Chinese professionals. There are not yet many

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